

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)

APPEAL DECISION

FEMA Flood Insurance Appeal Decision #C23

OVERVIEW

The policyholder filed an appeal on August 2018, alleging his flood insurance carrier (hereinafter “insurer”) improperly denied part of his claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to the property arising from a flood event dated August 2017.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$250,000 of building coverage.
- The policyholder filed a claim and the insurer assigned an adjuster to the claim. The adjuster inspected the property on September 2017.
- The adjuster measured waterlines of 16 inches on the exterior of the building and 9 inches on the interior of the building.
- The insurer issued the policyholder payments totaling \$93,511.51 for building damage. This payment included an allowance for detaching and resetting the granite countertops.
- In a letter dated July 2018, the insurer denied coverage for a section of granite countertop that was damaged during the removal of the cabinets because there was no direct physical flood damage to the granite countertop.
- The policyholder appealed the insurer’s decision to deny coverage for the damaged granite countertop.
- In support of the appeal, the policyholder submitted an affidavit from a contractor noting that a section of the granite countertop sustained damage while removing the flood damaged lower cabinet.

RULES

The insurer agrees to pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complied with all terms and conditions of the SFIP.³

The SFIP covers loss or damage to insured property directly caused by a flood. There must be evidence of physical changes to the property.⁴

¹ See 44 C.F.R. § 61.13 (2015); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

² The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

³ See SFIP (I), (II)(B)(12).

⁴ See SFIP (II)(B)(12).

In case of a loss to an article that is part of a pair or set, the insurer has the option of paying the policyholder an amount equal to the cost of replacing the damaged article, minus its depreciation, or the amount that represents the fair proportion of the total value of the pair or set that the damaged article bears to the pair or set.⁵

ANALYSIS

On appeal, the policyholder contests the denial of payment for replacement of a damaged section of his granite countertop.

Under the SFIP, the insurer agrees to pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complied with all terms and conditions of the policy. Loss or damage to insured property must be directly caused by a flood. There must be evidence of physical changes to the property.

In its review of the appeal, FEMA determined the affidavit provided from the contractor sufficiently demonstrated that the damage to the countertop during removal was unavoidable. FEMA instructed the insurer to re-evaluate the damaged countertop and issue payment accordingly.

FEMA also advised the insurer that only the damaged countertop would be covered under the SFIP. Any countertops that were not damaged directly by or from flood, or did not suffer unavoidable damage during removal, are not covered. The policyholder requested payment of \$7,768.99 to replace all of his countertops. However, the SFIP only provides coverage when there is evidence of physical damage to the claimed property. The SFIP only provides coverage for the insured property that suffered physical damage, which in this appeal, are the countertops that were unavoidably damaged.

The pair and set clause of the SFIP states that in case of a loss to an article that is part of a pair or set, the insurer has the option of paying the insured an amount equal to the cost of replacing the damaged article, minus its depreciation, or the amount that represents the fair proportion of the total value of the pair or set that the damaged article bears to the pair or set. The National Flood Insurance Program Claims Manual provides additional explanation on this clause. It writes that if the damaged property item is ruined and can be replaced individually as a single item with like kind and quality, and this renders the other item or the set usable, the SFIP will only cover the damaged or ruined item. Examples given in the Claims Manual include a ruined granite cabinet countertop and a salvageable granite island countertop.⁶

While the policyholder may consider all of his kitchen countertops to be a pair or a set, FEMA finds the undamaged countertop areas in the kitchen is still usable without the section of the countertop that was damaged. An example of when one item of a pair or set is ruined and requires replacement of the pair or set is when one shoe of a pair becomes ruined. The single undamaged shoe is not usable without the other, which justifies replacement of the pair. In this case, because the other undamaged sections of countertops are still usable, their replacement is not justified under the SFIP.

⁵ See SFIP (VII)(A).

⁶ See NFIP Claims Manual.

FEMA finds the insurer was correct in re-evaluating the damaged countertop and offering additional payment. FEMA finds the insurer was correct in denying payment for any undamaged countertops.

CONCLUSION

Based on the facts and analysis above, FEMA agrees with the insurer's claim decision, which permits coverage for the section of granite countertop that was unavoidably damaged while removing the flood damaged lower cabinet.